

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOSEPH GRANDE,

Plaintiff,

Civil Act. No: 1:11-cv-00777-SAS-JLC
ECF Case

v.

GRISTEDE'S FOODS, INC.; JOHN
CATSIMATIDIS,

Defendants.

-----X

**NOTICE OF NO OPPOSITION BY PLAINTIFF TO RENEWED MOTION
TO DISMISS BY DEFENDANT GRISTEDE'S FOODS, INC.**

Defendant Gristede's Foods, Inc. ("Gristede's") served and filed its Renewed Motion to Dismiss, with supporting papers, on July 29, 2011. By order of the Court, Plaintiff Joseph Grande ("Grande") was required to file any opposition to Gristede's Renewed Motion to Dismiss on or before August 19, 2011. *See* Document No. 27 in the Court's Docket. The Court denied Grande's request for additional time, and reiterated the August 19, 2011 deadline, by order dated August 15, 2011. *See* Document No. 28 in the Court's Docket. The August 19, 2011 deadline has passed and Grande has failed to file any opposition to Gristede's Renewed Motion to Dismiss.

Accordingly, Gristede's respectfully requests that the Court grant its Renewed Motion to Dismiss and issue an order dismissing with prejudice Grande's Amended Complaint under Rule 12(b)(6) or Rule 41(b) of the Federal Rules of Civil Procedure, awarding Gristede's its reasonable attorneys' fees and court costs and disbursements incurred in connection with Grande's New York Labor Law § 740 claim, pursuant to New York Labor Law § 740(6), and granting Gristede's such other and further relief as this Court deems just and proper.

Dated: New York, New York
August 31, 2011

Respectfully submitted,

SEDGWICK LLP

By: s/ William J. Brennan
Charles H. Kaplan (CK-5801)
William J. Brennan (WB-0742)
125 Broad Street, 39th Floor
New York, New York 10004
Telephone: (212) 422-0202
E-Mail: charles.kaplan@sedgwicklaw.com
E-Mail: william.brennan@sedgwicklaw.com
Attorneys for Defendant Gristede's Foods, Inc.

TO: Mr. Joseph Grande
59 Bennett Road
Matawan, New Jersey 07747

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants, including Joseph Grande, on August 31, 2011. Executed on August 31, 2011.

s/ William J. Brennan
William J. Brennan (WB-0742)

ATTORNEY'S CERTIFICATION OF SERVICE BY OVERNIGHT DELIVERY

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

WILLIAM J. BRENNAN, the undersigned attorney at law admitted to practice in the United States District Court for the Southern District of New York, hereby affirms: that he is over 18 years of age; is not a party to this action; and is an attorney in the law firm of Sedgwick LLP, 125 Broad Street, 39th Floor, New York, New York 10004.

That on August 31, 2011, he caused to be served the attached

**NOTICE OF NO OPPOSITION BY PLAINTIFF TO RENEWED MOTION TO
DISMISS BY DEFENDANT GRISTEDE'S FOODS, INC.**

upon the following party at the address designated by him for that purpose:

Mr. Joseph Grande
59 Bennett Road
Matawan, New Jersey 07747

Said service was made by depositing true copies of the attached papers enclosed in a first-class postpaid sealed wrapper, properly addressed to the above-named party, in an official depository under the exclusive care and custody of the United States Postal Service.

WILLIAM J. BRENNAN declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct. Executed on August 31, 2011.

s/ William J. Brennan
William J. Brennan (WB-0742)